

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

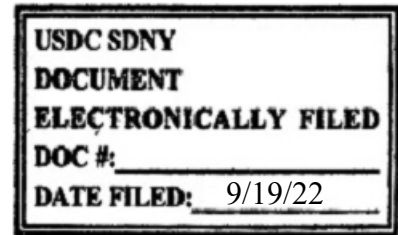
U.S. BANK NATIONAL ASSOCIATION,

Plaintiff,

-against-

TRIAXX ASSET MANAGEMENT LLC,
et al.,

Defendants.



18-CV-4044 (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The Court has reviewed the parties' letter dated September 14, 2022, and made certain adjustments to their proposed dates. The following schedule shall control the remaining proceedings in this action:

1. Joint Pretrial Order. No later than **February 22, 2023**, the parties shall file on ECF and email a courtesy copy in Word format (to Moses_NYSDChambers@nysd.uscourts.gov) their proposed Joint Pretrial Order (JPTO) in accordance with this Court's Individual Rules of Practice. The parties are reminded that preparation of the JPTO requires close cooperation between counsel, who must exchange information and drafts well in advance of the due date in order to meet that due date. The JPTO must include, among other things, "[a]ll stipulations or agreed statements of fact or law." Moses Ind. Prac. § 4(b)(vii). In this case, the Court expects the parties' stipulations of fact and agreed statements of law to be robust. The JPTO must also include witness lists, deposition designations, and exhibit lists. *Id.* §§ 4(b)(viii)-(x). It is ordinarily the plaintiff's responsibility to coordinate with defendants' counsel, to file the joint document on ECF, and to advise the Court promptly of any difficulties encountered in the preparation process. In this action, the Court requests that U.S. Bank National Association fill that role.

2. Direct Testimony by Affidavit or Declaration.

- a. No later than **March 10, 2023**, the parties shall submit to the Court by (i) email and (ii) hard copy delivered to chambers, and serve on opposing counsel (but not file on ECF), affidavits or declarations constituting the direct testimony of each trial witness to be called by that party, except for an adverse party, a person whose attendance must be compelled by subpoena, or a person from whom the Court has agreed to hear direct testimony live at the trial. The original signed affidavits or declarations shall be brought to trial to be marked as exhibits.
- b. No later than **March 17, 2023**, each party shall submit a list of all witnesses that it intends to cross-examine at the trial. If no party intends to cross-examine a witness at trial, that witness need not appear.

3. Motions in *Limine*. No later than **March 17, 2023**, the parties shall file any motions in *limine*, including copies of the challenged exhibits or testimony. Responses shall be filed no later than **March 31, 2023**.

4. Statements of the Elements and Pretrial Memoranda. No later than **March 24, 2023**, each party shall file on ECF a statement of the elements of each claim, counterclaim, cross-claim, defense, or remedy involving such party (including elements as to which the parties have agreed in the JPTO), together with a summary of the facts that will be relied upon to establish each element and to establish that party's entitlement to damages or other relief (including facts to which the parties have stipulated in the JPTO). In the alternative, a party may submit proposed findings of fact and conclusions of law, which likewise must discuss the elements of each relevant claim, counterclaim, cross-claim, defense, and remedy. Any

party that believes it will be useful may also file a pretrial memorandum of law no later than **March 24, 2023**.

5. Trial Exhibits and Deposition Testimony. No later than **April 4, 2023**, the parties shall submit to the Court two copies of their pre-marked trial exhibits and deposition excerpts, tabbed and neatly bound.
6. Final Pretrial Conference. The parties shall appear for a final pretrial conference on **April 11, 2023, at 10:00 a.m.** Each party's principal trial counsel must attend, must be prepared to discuss any remaining pretrial matters, and must be fully informed as to the availability of that party's witnesses during the week of April 17, 2023, including any potential scheduling difficulties.
7. Trial. Trial shall commence on **April 17, 2023, at 9:30 a.m.**, in Courtroom 20A at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007. The parties must bring their original pre-marked exhibits and original witness affidavits with them to the trial.
8. Settlement. If the parties would like a settlement referral to a magistrate judge of this Court (other than the trial judge), they may so request by letter.

Dated: New York, New York
September 19, 2022

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge